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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/828,239 | 04/09/2001 | Kent Gregg | 447694-4 | 5621 |

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EXAMINER

SEMBER, THOMAS M

ART UNIT PAPER NUMBER

2875

DATE MAILED: 07/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/828,239

Applicant(s)

GREGG, KENT

Examiner

Thomas M Sember

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04/30/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Response to Arguments

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

Claims 1-4, 7, 15-18 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Pfaeffle '559. Pfaeffle '559 discloses at least one light conductive path (96-104) attached to the exterior surface of a helmet. The path has a first end optically coupled to a light source and a second end for emitting light.

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

Claims 1-7, 14-21 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Baumgartner. Baumgartner discloses at least one light conductive path 16 attached to the

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exterior surface of a helmet. The path has a first end optically coupled to a light source 22 and a second end for emitting light. Baumgartner further teaches that LEDs having various colors and rechargeable batteries may be used with the lighting assembly.

Claim Rejections - 35 U.S.C. § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 14-21 and 28 rejected under 35 U.S.C. 102(b) as being anticipated by Shea, Sr. Shea, Sr. discloses at least one light conductive path (28-32) attached to the exterior surface of a helmet. The path has a first end optically coupled to a light source and a second end for emitting light.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-13, 22-27 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glatt ('947 or '409) in view of (Pfaeffle or Baumgartner or Shea, Sr.). Regarding claims 8-9, 11-13, 22-23, 25-27 and 29-30. Glatt ('947 or '409) teaches the claimed invention except for the teaching of a light conductive member for transmitting light from one end to an opposite end thereof. (Pfaeffle or Baumgartner or Shea, Sr.) all teach fiber optic light members for transmitting light along the exterior surface of the helmet. It would have been obvious to one skilled in the art at the time the invention was made to substitute the fiber optic lighting systems of (Pfaeffle or Baumgartner or Shea, Sr.) for the string lights of Glatt ('947 or '409) in order to efficiently transmit light over a greater surface while using less battery power. Regarding claim 10 and 24, Glatt ('947 or '409) discloses the claimed invention except for the signal receiving means being an ultrasonic, radio frequency or infrared signal. It would have been obvious to one skilled in the art at the time the invention was made to substitute an ultrasonic, radio frequency or infrared signal receiving means for the signal receiving device of Glatt ('947 or '409) since the examiner takes official notice of the equivalence of these types of signaling devices in the illumination art and therefore these signaling receiving devices would be interchangeable to one skilled in the art.

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3. Applicant's arguments filed on 02/10/03 have been fully considered but they are not persuasive. The applicant merely states that Pfaeffle '559, Baumgartner and Shea, Sr. doesn't anticipate applicant's claims under 35 U.S.C 102 but the applicant never points out or describes what specific claims and limitations the references do not teach.

Then the applicant merely states that Glatt ('947 or '409) in view of (Pfaeffle '559, Baumgartner and Shea, Sr.) doesn't teach applicant's claims under 35 U.S.C 103 but again the applicant never points out or describes what specific claims and limitations the references do not teach. Applicant then states a test for obviousness which the applicant believed was met. The references were considered as a whole by the examiner and their desirability and obviousness to make the combinations were justified (see motivation statement made by the examiner and the references were from the same field of endeavor). Furthermore, no hindsight was used to make the 103 rejection. Only relevant teachings known in the art before applicant's invention were applied and there is a reasonable standard of success for combining the references.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

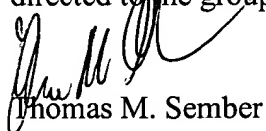
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Sember whose telephone number is (703) 308-1938. The examiner can normally be reached on Monday - Thursday from 8:00 AM - 5:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea, can be reached at (703) 305-4939. The fax phone number for this group is (703) 308-7724.

Any inquiries of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-0861.



Thomas M. Sember

Primary Examiner

July 21, 2003